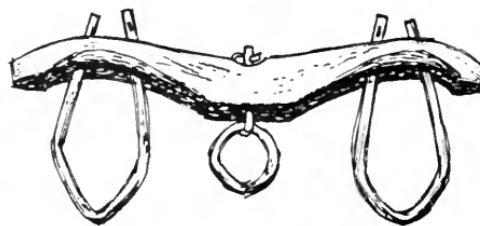


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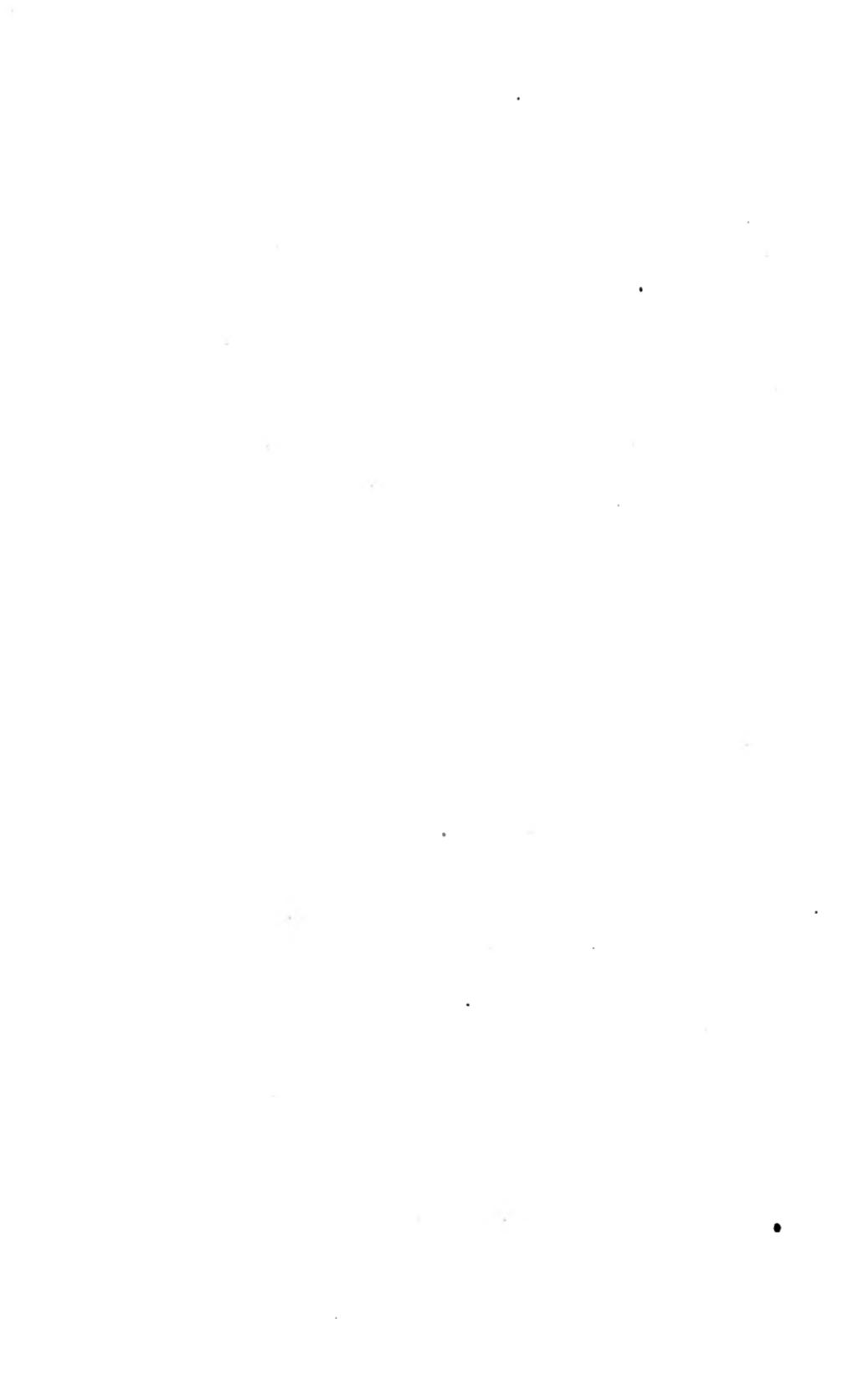


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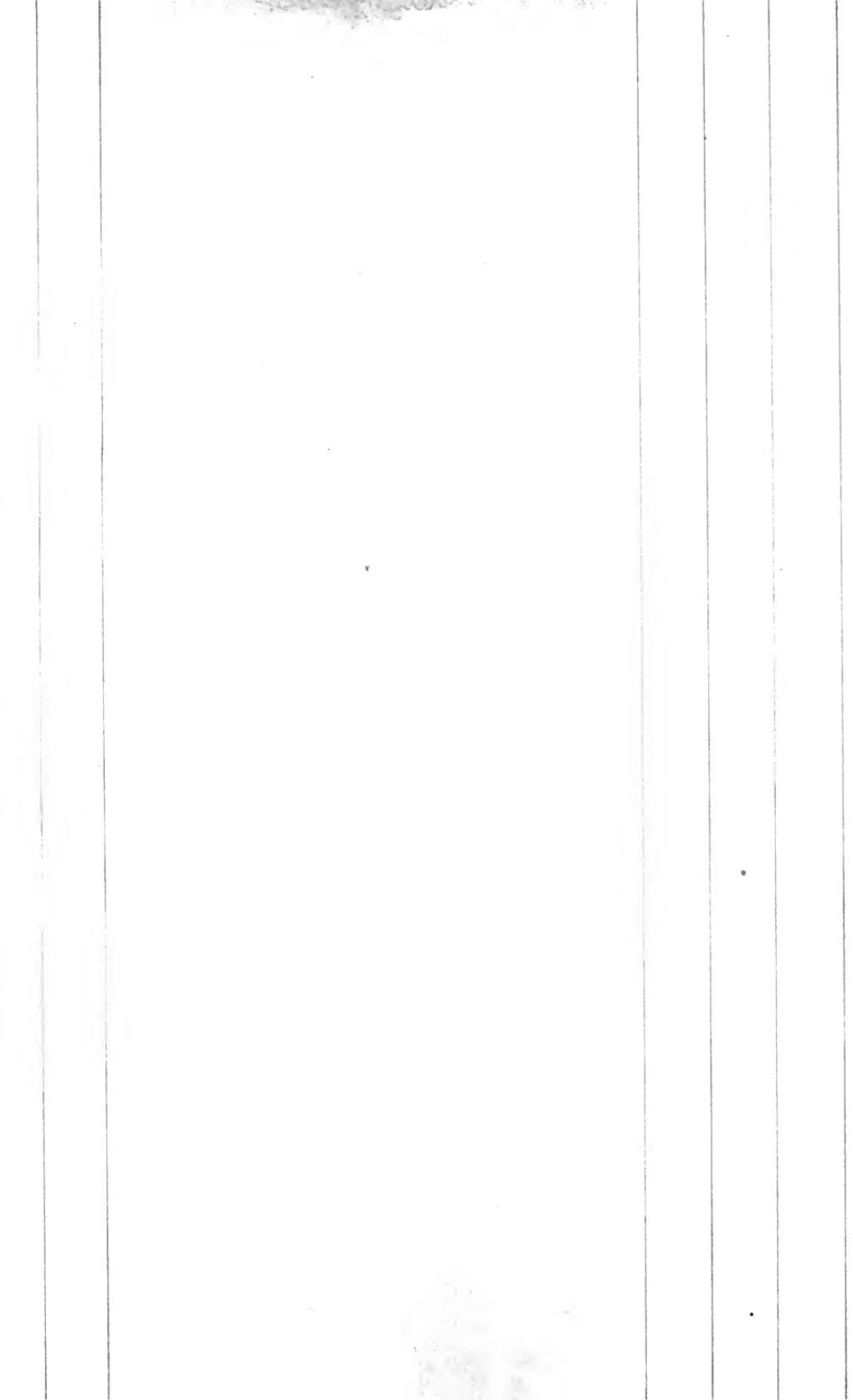
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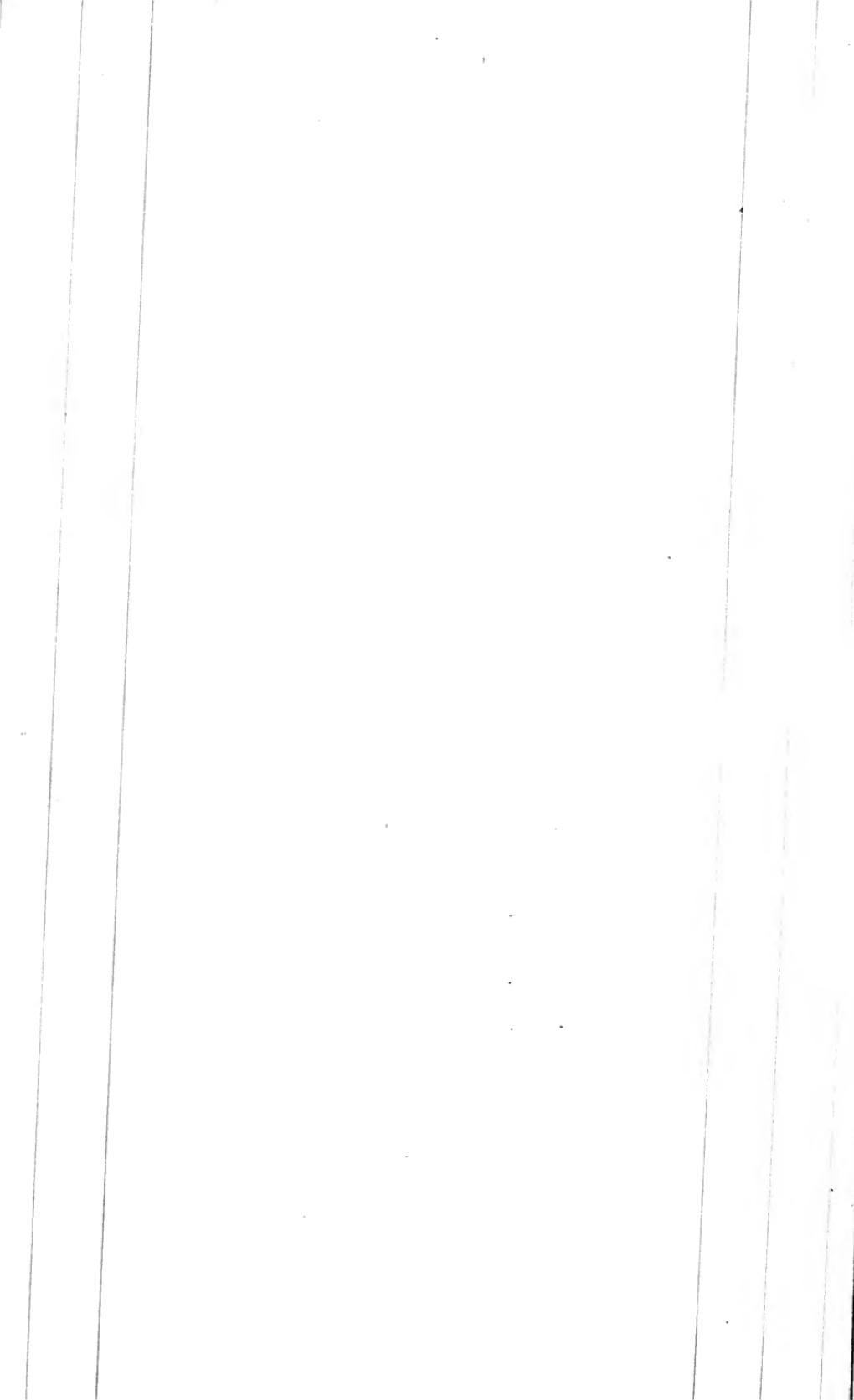
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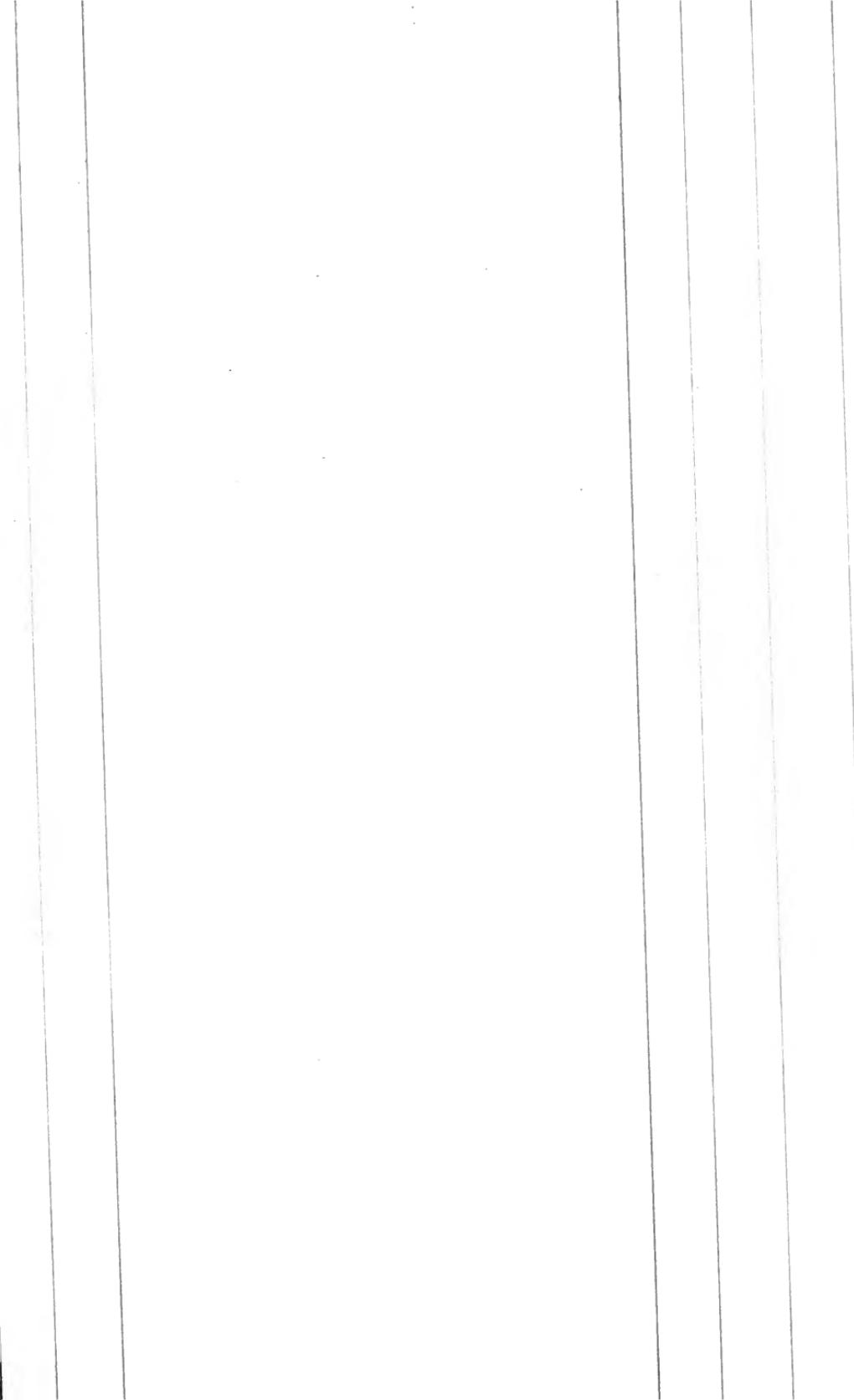


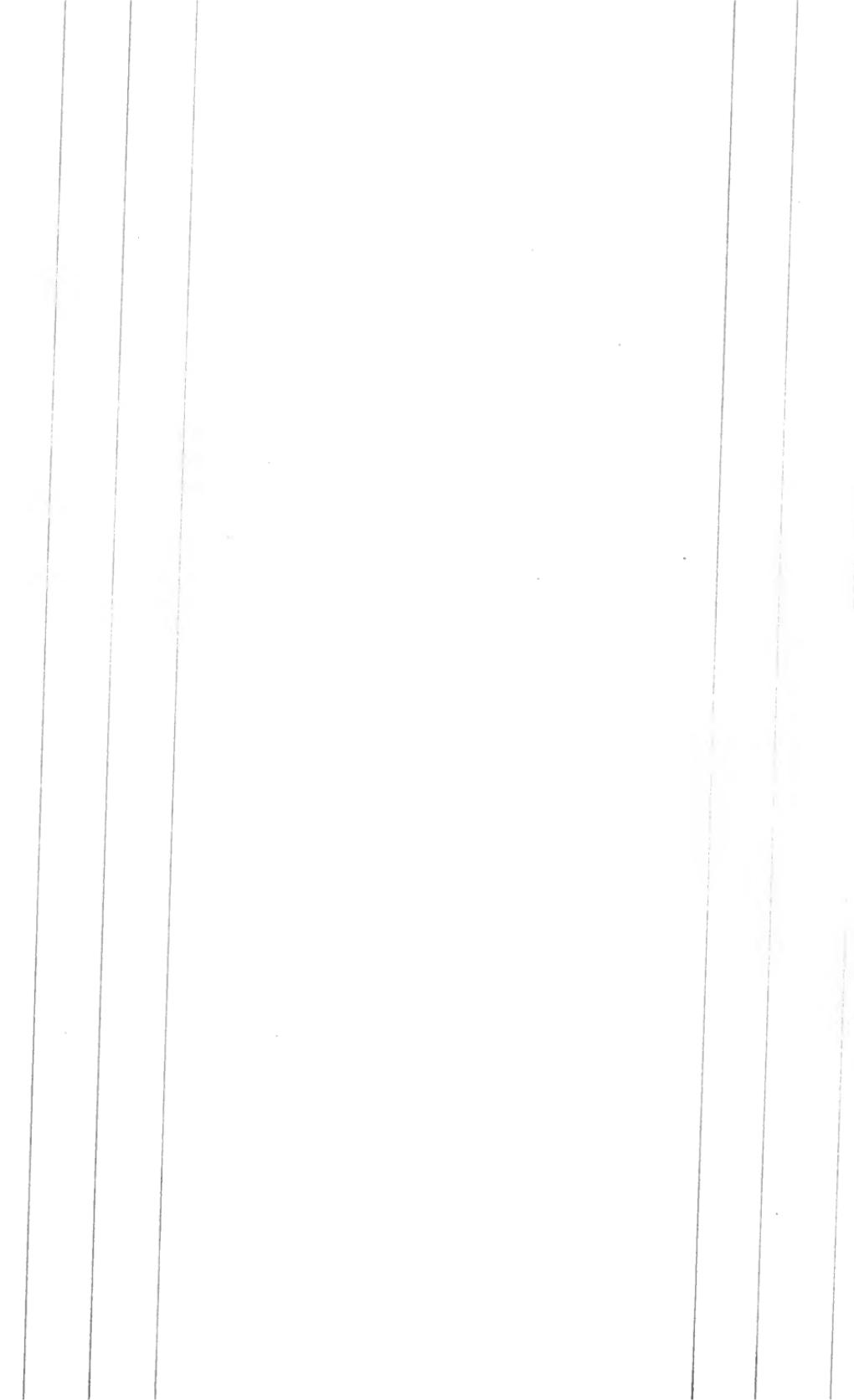


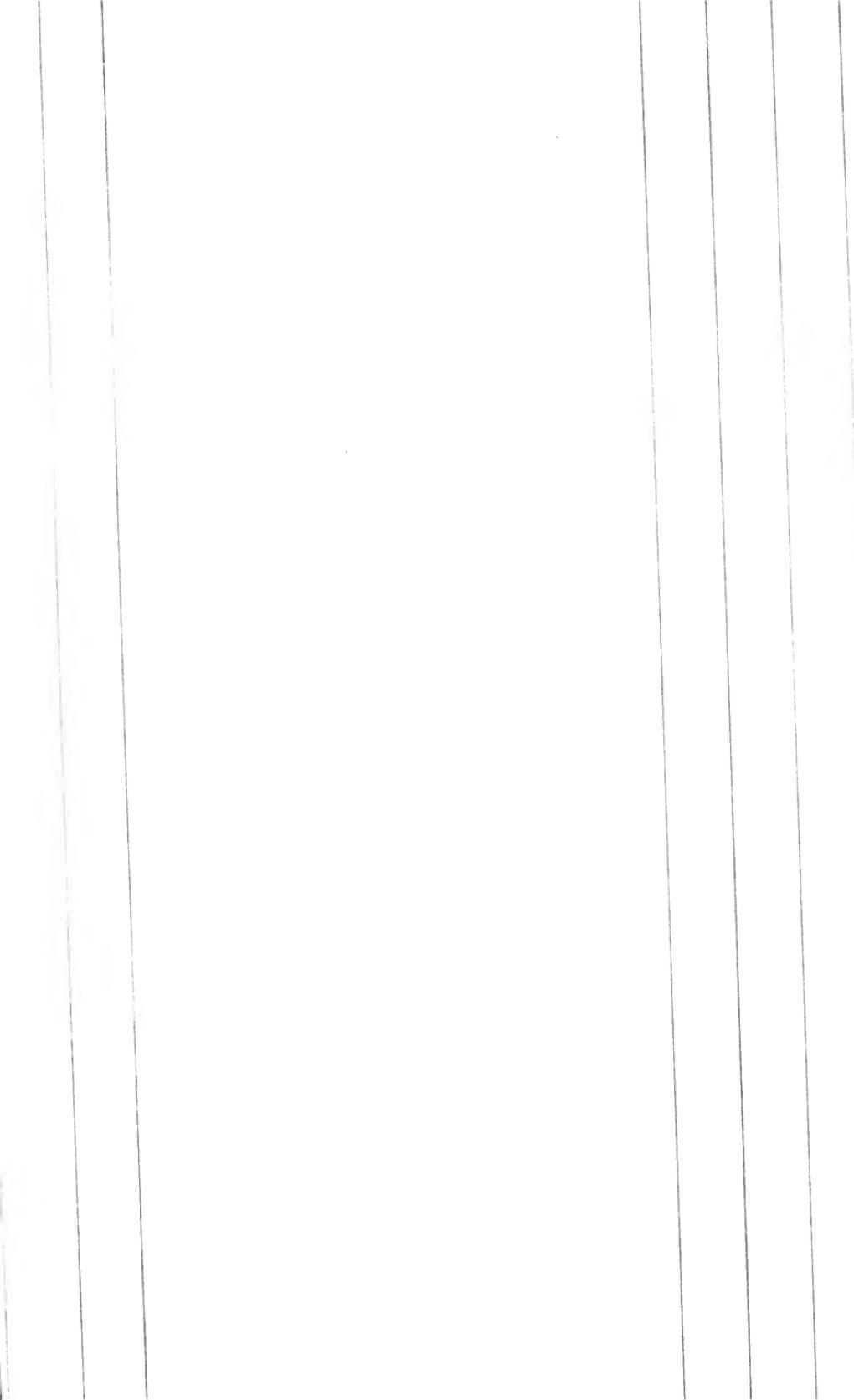


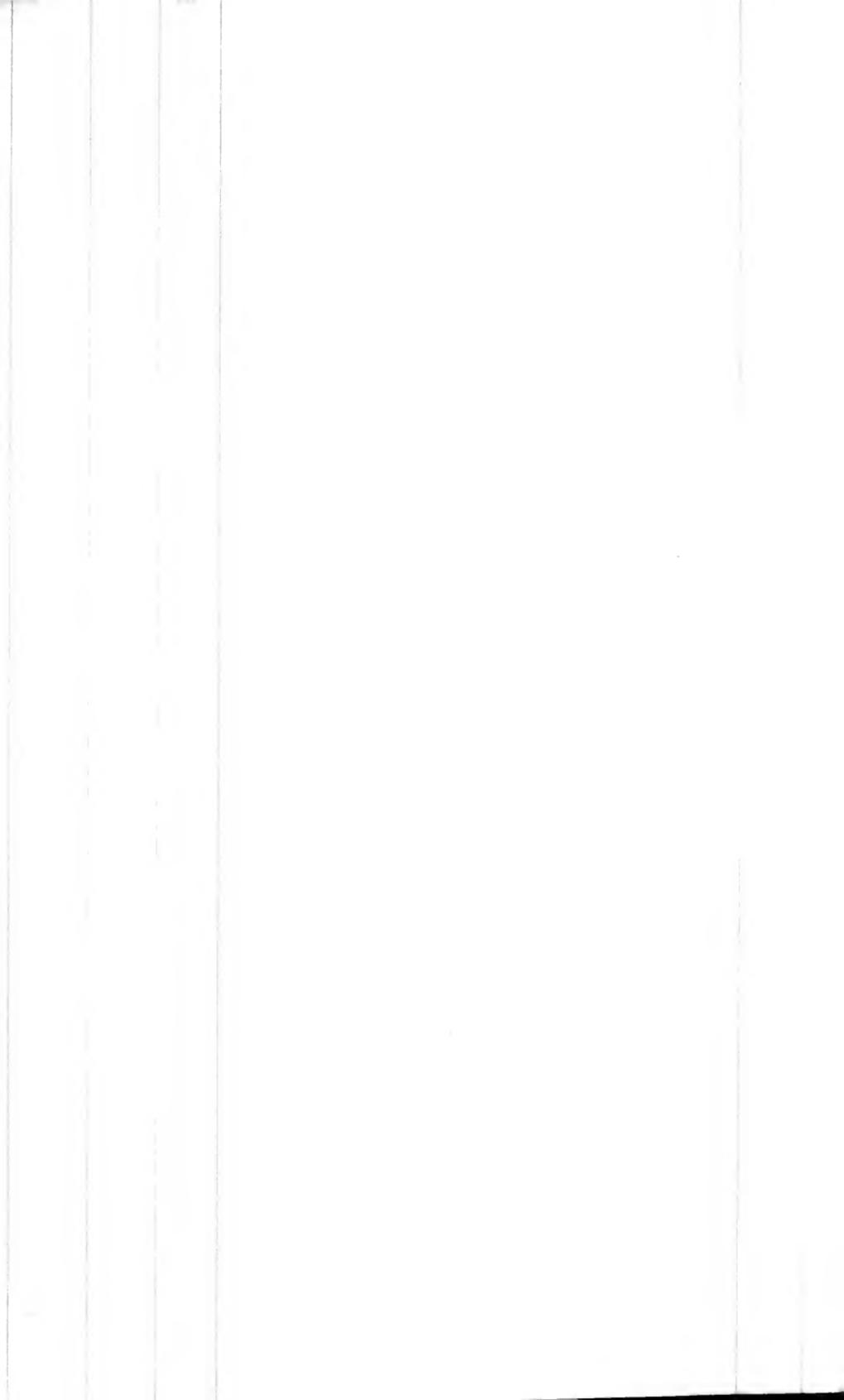












# War Power outside the Constitution

This Address was written by Hon. Edward Ryan, & is known as Ryan's Address.

## ADDRESS TO THE PEOPLE,

BY

THE DEMOCRACY OF WISCONSIN,

ADOPTED IN STATE CONVENTION

At Milwaukee, September 3, 1862.

We address you in a time of great trial and calamity. We address you in a time of national suffering and sorrow. We address you in a crisis of fearful peril to the Union and to the free institutions established by our fathers in the several states. We do so with a solemn sense of responsibilities resting upon us in common with the whole American people. We do so with the single design of contributing all our aid to the preservation of the Union, the constitution, and the liberties of the states.— And we propose to do so, according to our lights, fearlessly and openly, let whatever new power frown upon the ancient American birth-right of freedom of speech.

Our state constitution, asserting the inviolable right of liberty of political discussion, adopts an American maxim as old as American independence, when it declares that "the blessings of free government can only be maintained by frequent recurrence to fundamental principles." And whosoever, in whatsoever position, asserts that there has come a time in American history, when freedom of speech should be suppressed, when the safeguard of political opposition should be abandoned, and the voice of all parties, except one, should be silenced, when the administration of the government should pass uncensured and unquestioned, when loyalty to the institutions of our country should give way to passive submission to our rulers, has little sympathy with the spirit of the liberty won by the valor of our fathers, or of the free institutions established by their wisdom. In a free country, the freedom of the people abides in peace and war, in domestic tranquility and civil discord. The constitution of the United States and the constitutions of the several states provide alike for all the exigencies of peace at home and abroad, of foreign war and domestic insurrection. The constitution of the United States and the laws enacted in pursuance of it, are the supreme law of the land in all conditions of the country. The constitution is inviolate in all circumstances of the people and the government.— State necessity has no power to suspend the constitution or abridge the freedom of the people. State necessity as an excuse for invading

popular liberty, has been in all history the tyrant's plea. When popular liberty succumbs to the cry of state necessity, the land has already ceased to be free.

Loyalty, in America, is the franchise of no office or officer. American loyalty is due to the Constitution alone. Fidelity to the Constitution is loyalty to the Union. There is no Union outside the Constitution. The Constitution is the Union. And whatever man, officer or party assumes to be true to the Union and not to the Constitution as our forefathers made it and our fathers enjoyed it, is disloyal to both. Blind submission to the Administration of the government, is not devotion to the country or the Constitution. The Administration is not the government. The government is established by the Constitution and rests in its provisions. The Administration is as subject to the Constitution and as responsible for its observance, as the people. The Administration may err, but the Constitution does not change. And when the Administration violates the Constitution, loyalty to the Administration may become disloyalty to the Union. Devotion to the Constitution is the only American loyalty.

In times of peace and prosperity, there is little danger of the loyalty of the people forsaking the constitution for the principles of a party, or the policy of an Administration. But in days of civil discord and convulsion, there is danger of patriotism being blindfolded, mistaking the object of its faith, and transferring to the servant of the altar the devotion due only to the altar itself. And in such days it is the duty of all parties to consider well their position, and to determine how far their loyalty to the constitution is consistent with their support of the Administration of the government.

Almost as old as the Union, founded in the broad principles of the constitution, identified with all the prosperous history of the United States, the Democratic party has no new principles to enunciate, no new loyalty to pledge. It has always been, as it is, the party of the constitution. In all its career, the constitution has been its only creed, the altar of the country its only place of worship. It is human, and has erred. It has been depressed by defeat and

elated by success, and has at times mistaken the true path of duty. But it has never lost sight of the constitution or wandered far from its ways. Its history chronicles a devotion to the constitution, and a sympathy with the spirit of the people, as just and steadfast as human devotion and sympathy can attain. If not always right, it has not been often or long wrong. Human history can say no more for any party, in any age or country. The Democratic party needs to-day no platform but its history. But in this unprecedented and terrible crisis, it becomes us to consider the application of old principles to new conditions.

The Democratic party has outlived many antagonists. The Federal party, the National Republican party, the Whig party, have successively struggled with it with varied success; but have successively disappeared from history. This was not accidental. The democratic party was as subject to accident as its rivals. It has been frequently defeated. But it has survived all its defeats, while its ancient enemies have not survived occasional success. The reason is apparent. It was founded on the true principles of our government, and guided by true sympathy with the spirit of American institutions. They rested in a narrower comprehension of the genius of the American people and in mistaken views of the principles of the Constitution. They died the death of error; it lives the life of truth.

The history of the country is the history of the democratic party. With occasional intermissions, it has administered the national government and guided the march of American history. Under its influence the true spirit of the Constitution displaced the narrow and un-American comprehension of our system of government which originally prevailed, and gave tone to the Administration of the elder Adams. Under its influence the commercial and economical interests of the country were emancipated from the hot house system of tariffs and currency, which bound American energy and skill in the chains of European theory. Under its leadership, the American flag was carried in glory through war, and sent in peace floating in security over all the seas of commerce. Under its leadership the area of the country was almost doubled, and new fields of enterprise were populated by prosperous American communities. Under the guidance of no other party was any great stride made in civil or commercial prosperity, was a war ever waged with a foreign enemy, was an acre of territory ever added to our vast domain. The democratic party led the country from its feeble and poor condition at the beginning of the present century, to the great and glorious empire of freedom, the unparalleled political and material prosperity, in which it met with its last defeat in the presidential election of 1860.

Such defeats of the great party of the country never before carried with them permanent evil to the nation. The old opponents of the democracy took the administration of the government upon its defeat, and surrendered it again upon its success, the Constitution and the Union re-

maining unimpaired. The ancient antagonists of the democracy, whatever their sins of doctrine or action, were national parties, resting upon no sectional policy, representing no sectional constituency. When in power, they administered the government upon the policy of a majority of the whole country. When in opposition, they spoke for a majority of the whole country. They were loyal, because they were national. The Union was safe, because they were loyal. Their success was harmless to the Constitution, because it was the defeat of a constitutional party, and not of the spirit of the Constitution itself.

The defeat of the Democratic party in 1860 has been followed by the revolt of several of the states from the Union and by the present terrible civil war, because it was defeated by a sectional party. We reprobate that revolt, as unnecessary, unjustifiable, unholy. Devoted to the Constitution, we invoke the vengeance of God upon all who raise their sacrilegious hands against it, whether wearing the soft gloves of peace or the bloody gauntlets of war. But we affirm that the revolt and consequent civil war were a long foretold and probable result of the accession to power of a sectional party, because their success was the defeat of the spirit of the Constitution.

In so vast a union of states, of such differing interests, habits and institutions, the danger of sectional parties to the peace and permanence of the Union, was early foreseen by the fathers of the Constitution. The Father of his Country, himself, gave voice to these apprehensions in his farewell address in 1796. He passed a eulogium upon the Union, which no tongue or pen has since improved. He urged the "unity of the Government which constitutes us one people." He impressed upon the nation, that it was "a main pillar in the edifice of our real independence; the support of our tranquillity at home; of our power abroad, of our safety, of our prosperity, of the very liberty which we so highly prize." In a spirit of prophecy, he cautioned the people and their posterity against the dangers it might encounter, and with his parting words invoked them "indignantly to frown upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now linked together the various parts." He enlarged upon the mutual dependence of the various parts of the country. North and South, East and West: he warned us against parties founded on "geographical discriminations whence designing men might endeavor to excite a belief that there is a real difference of local interests and views." He foretold that "one of the expedients of party is to acquire influence within particular districts, is to misrepresent the opinions and aims of other districts." He forewarned us that "we could not shield ourselves too much against the jealousies and heart burnings which tend to render aliens to each other those who ought to be bound together by fraternal affection."—Fearful prophecy, fearfully fulfilled? How the great spirit of the illustrious Washington would have mourned had he been able to foresee the

full and terrible measure of the danger he foretold, the insane and terrible disregard of his holy advice, which has accomplished it

There was no reason why the several States of the Union should not have abided together in harmony, for all time. Their domestic institutions, their social condition and their habits of life, differed indeed from the beginning.— And, in the language of General Jackson, this difference was unavoidably increased by the varying principles upon which the American colonies were originally planted; principles which had taken deep root in their social relations before the revolution, and therefore, of necessity, influencing their policy since they became free and independent States." The progress of all the states was great, but frequently in different directions. But the Constitution left to the several states the exclusive control of their domestic concerns; and had the spirit of the Constitution prevailed, differences of domestic institutions would never have disturbed the peaceful relations of the states in the Union. The slavery of the African race formed from the beginning the most important and dangerous of these differences. The Constitution was a compact of compromises, and in no instance more wisely or generously so than in relation to the institution of slavery. And had the several states of the Union abided in their politics by that necessary and magnanimous spirit of compromise, the Union would now be undisturbed, and ancient harmony and prosperity would reign where civil war now rages.

Fanaticism is the bane of harmony. It has disturbed many states and overturned many governments. It is one of the most difficult social evils to deal with. It has a growth of prosperity, and yet gains strength under persecution. It often appeals to the most generous prejudices of humanity; it often wears the garb of religion and morality; it has wonderful powers of proselytism; it has great capacities to make wrong look like right, and to deck errors in the robes of truth. It is a terrible apostle of evil. Discord follows its lead, and revolution too often is the end of its career.

Unfortunately among many elements of good and greatness, fanaticism emigrated to this country. From time to time, it has played its part in marring the record of civil and religious liberty in American history. It has, from time to time, sent forth various heretical dogmas of politics. It has asserted a higher law, above the Constitution itself. It has in recent memorable words, sought to do in the name of God what could not be done in the name of the Constitution.

It finally found employment fatal to the peace of the country in political abolition. The north had rid itself of the incubus of slavery. The south was as responsible for slavery in the south, as the south itself is. But fanaticism became offended with southern slavery; and overlooking home evils and home reforms, it devoted itself to the discussion of the evils of African slavery, clamoring against its criminality and urging its abolition. It disregarded the

Constitution and denounced its guarantees of the rights of slavery as a compact of sin and shame. Many of its teachers openly advocated disunion; and many more proclaimed an irrepressible conflict between the domestic systems of the north and the south, arguing that the states of the Union must become all free or all slave.

These dangerous and revolutionary doctrines have always been combated by the democratic party. The democracy has no apology to make for southern slavery. We regard it as a great social evil. But we regard it as a misfortune, not a crime. The crime is in the presence of the African race upon the continent. That is a crime of the past, not of the present. And even in the past, it was less the crime of the south, than of those who grew rich in the slave trade, and who now clamor for the abolition of slavery which they themselves planted. We hold this country to be the possession of the white race, and this government to be instituted by white men for white men. We commiserate the condition of the slave; but we are unwilling to violate the constitution in his behalf, or to disturb society by emancipating four millions of an inferior race in a land possessed by a superior race. It is the sin of history that the African race is here; once here in great numbers, the proper condition of the African was subjection in some form to the White. Equality was impossible. Nature has made social equality impossible without fatally sinning against her laws, and without social equality political equality is impossible. Nature never placed the races together; when brought together, the servitude of the inferior is the best condition for both races; a necessary evil resulting from the violation of natural law in bringing them together.

But fanaticism did not so see it. Fanaticism at the north, unembarrassed by the presence of slavery, did not see slavery as a necessary evil, but only as an abstract wrong. It could make no allowance for the condition of the south, and had no toleration for the compromises of the constitution or the safeguards which it extended to the institutions of the south.

For a long time the abolition party was a weak political minority; but it was from the beginning an energetic and dangerous apostle of unconstitutional doctrines and sectional jealousies and distrusts.

As long ago as 1837, the warrior statesman, Andrew Jackson, in his farewell address, warned us against it. He quoted the warnings of Washington; and said: "The lessons contained in this invaluable legacy of Washington to his countrymen, should be cherished in the heart of every citizen to the latest generation, and perhaps at no period of time could they be more usefully remembered than at the present moment. For when we look upon the scenes which are passing around us, and dwell upon the pages of his parting address, his paternal counsels would seem to be not merely the offspring of wisdom and foresight, but the voice of prophecy, foretelling events, and warning us of the evil to come. \* \* \* \* \*

federal constitution was then regarded by him as an experiment. \* \* \* \* \* The trial has been made. It has succeeded beyond the proudest hopes of those who framed it. Every quarter of this widely extended nation has felt its blessings and shared in the general prosperity produced by its adoption. But amid this general prosperity and splendid success, the dangers of which he warned us, are becoming every day more evident, and the signs of evil are sufficiently apparent to awaken the deepest anxiety in the bosom of the patriot. We behold systematic efforts publicly made to sow the seeds of discord between different parts of the United States, and to place party divisions directly upon geographical distinctions; to excite the south against the north, and the north against the south, and to force into the controversy the most delicate and excited topics, upon which it is impossible that a large portion of the Union can ever speak without strong emotions. Appeals too are constantly made to sectional interests, \* \* \* \* \* and the possible dissolution of the Union has at length become an ordinary and familiar subject of discussion.

"Has the warning voice of Washington been forgotten, or have designs already been formed to sever the nation? \* \* \* \* \* Mutual suspicions and reproaches may in time create mutual hostility; and artful and designing men will always be found, who are ready to foment these fatal divisions and to inflame the natural jealousies of different sections of the country. \* \* \* \* \* Delude not yourselves into the belief that a breach once made may be afterwards repaired. If the Union is once severed the line of separation will grow wider and wider, and the controversies which are debated and settled in the halls of legislation, will be tried in fields of battle and determined by the sword. \* \* \* \* \* The Constitution cannot be maintained nor the Union preserved, in opposition to public feeling, by the mere exertion of the coercive powers confided to the general government. The foundations must be laid in the affections of the people; in the security it gives to life, liberty, character and property in every quarter of the country; and in the fraternal attachment which the citizens of the several states bear to one another, as members of one political family mutually contributing to promote the happiness of each other. Hence the citizens of every state should studiously avoid everything calculated to wound the sensibility or offend the just pride of the people of other states; and they should frown on proceedings within their own borders likely to disturb the tranquility of their political brethren in other portions of the Union. \* \* \* Each state has the unquestionable right to regulate its own internal concerns, according to its own pleasure. \* \* \* \* \* And all efforts on the part of the people of other states to cast odium on their institutions, and all measures calculated to disturb their rights of property or to put in jeopardy their peace and internal tranquility, are in direct opposition to the spirit in which the Union was founded and

must endanger its safety. Motives of philanthropy may be assigned for this unwarrantable interference, and weak men may persuade themselves for a moment that they are laboring in the cause of humanity and asserting the rights of the human race; but every one upon sober reflection will see that nothing but mischief can come from these improper assaults upon the feelings and rights of others. Rest assured that the men found busy in this work of discord, are not worthy of your confidence, and deserve your strongest reprobation."

So spoke one of the greatest and wisest patriots of American history. Counsels so sacred and warnings so solemn, were disregarded by the abolitionists; and the abolition party continued to teach its treasonable doctrines and to preach its crusade against the south and its institutions.

The result so wisely foretold, necessarily followed. The denunciation of the South at the north, was met by denunciation of the north at the south. Hostility in the north to the institutions of the south provoked hostility in the south to the people of the north. The great mass of the people in the south were loyal to the Union; but a class of public men in the south had for some time been tainted with disloyalty, and aimed to separate the southern states from the Union, whenever an opportunity should arise to carry the people of the south with them. These men zealously contributed to foment the abolition excitement at the north, and exaggerated its power and importance at the south. Thus faction begot faction, and the abolition party at the north produced the disunion party at the south. The spirit of Northern abolition and Southern disunion insensibly grew together for years, until the period of the last presidential election, when a bitter animosity existed between large and powerful factions in the north and in the south.

In the meantime in 1854-6 the whig party most unhappily abandoned its organization, and the present republican party was founded on the basis of the old abolition party. The best and most enlightened portion of the whigs refused all alliance with the new sectional party; but the vast body of the whigs surrendered their national politics to its narrow and sectional bigotry. The great leaders of the whig party were gone. The mighty voice of Webster which always spoke for the whole country and never uttered a sectional dogma, was silent forever. The great head and heart of Clay, whose statesmanship had served to save the Union from more than one peril and was as broad as the Union itself, lay low in death. Had these great lights of the whig party survived, we fully believe that they would have saved their party from the shame of prostituting itself in the unwholesome embraces of a sectional and revolutionary organization. But they were gone; pygmies sat in the seats of giants; the whig party went out of being, and the republican party was ingrafted on the abolition party.

It is true that the Republican party avows its abolition tendencies less manfully than the old

abolition party. They assume to interfere with slavery in the territories and other places subject to the jurisdiction of the United States only and not in the states. This thin disguise of their real policy, is fully exposed by the uniform tone of their discussions of slavery, by their resistance of the fugitive slave law, by their avowal of an irrepressible conflict between the institutions of the north and south, and by the whole tenor of their legislation wherever and whenever they have been in power. That a large and respectable body of the party have no sympathy with its abolition proclivities, is perhaps true; but there is no room for doubt that the abolition element in that party is its largest, most energetic, and influential element.

With the strength and influence of the Republican party, grew the strength and influence of the party of secession. Both were sectional; both revolutionary.

It would be idle to show the revolutionary character of the secession party. Its revolutionary purposes were avowed. The Republican party was no less revolutionary, though its revolutionary tendencies were less manifest.

It is evident, from what has already been seen that Washington and Jackson, fit representatives of the sages and patriots of the revolutionary and succeeding eras, regarded sectional parties as revolutionary. Under our system they are essentially so; for no sectional party could accomplish any end, except by the severance of the bonds of fraternity and unity between the different parts of the country upon which the Union rests. It is not we who say, it is the sages and patriots of the past who have said, that in American politics every sectional party is essentially disloyal to the Union.

In almost every state of the Union, in which the republican party have the power, they enacted laws impeding the execution of laws of the Union States. Such laws were passed by them in this state. A republican judiciary in this state nullified acts of Congress, assumed to overrule the decisions of the Supreme Court of the United States in cases arising under the Constitution and laws of the Union, disobeyed its mandates, and sanctioned by judicial decision the forcible rescue of prisoners held under the judicial process of the United States. But not content with his measure of disloyalty, the republican legislature of this state passed in 1859, and has ever since refused to rescind, resolutions setting at defiance the authority of the United States, and asserting the doctrine of secession as broadly as it has ever been asserted by any southern state. This is well understood at home, by democrats and republicans; but to avoid the suspicion of exaggeration abroad, we here insert two of these resolutions in full:

"Resolved, That the government formed by the Constitution of the United States was not made the exclusive or final judge of the extent of the powers delegated to itself; but that, as in all other cases of compact, having no common judge, each party has an equal right to judge for itself, as well of infractions, as of the mode and measure of redress."

"Resolved, That the principle of construction contended for by the party which now rules in the councils of the nation, that the General Government is the exclusive judge of the extent of the powers delegated to it, stop nothing short of despotism, since the discretion of those who administer the Government, and not the Constitution, would be the measure of their powers; that the several states which formed that instrument, have the unquestionable right to judge of its infraction; and that a positive defiance of those sovereignties, of all unauthorized acts done or attempted to be done under color of that instrument, is the RIGHTFUL REMEDY."

These resolutions had relation, not to the acts of the executive of the United States or even of Congress, but to a solemn decision of the Supreme Court of the United States upon the Constitution and Laws of the United States. This is the doctrine caught from seceding South Carolina by Republican Wisconsin, and repeated by the Republican party of Wisconsin, in full communion with the Republican party of the North, to justify secession in every disloyal state in the South.

Thus the Republican party, as well as the secession party, was revolutionary. And these two revolutionary parties grew in numbers and influence down to the Presidential election in 1860, when the Democratic party was defeated by the sectional influence of both.

The sectional party of the South succeeded in intruding some members into the Democratic Convention; and when defeated there by the steadfast loyalty of the true Democracy, put in nomination a renegade from his party and his country. The sectional party of the North put in nomination a distinguished gentleman, the author of the doctrine that the several states must ultimately become all slave or all free.

The Democratic party nominated as their candidate, a statesman now no more, of great experience and ability in public affairs, of great energy and integrity of character and life, the author of the only just and practical solution of the question of slavery in the territories, whose whole public life was devoted to the maintenance of the Constitution as it is, and the Union as it was; and whose zeal for the preservation of the country sacrificed his life in its prime.

The history of the convention which nominated Mr. Douglas, plainly shows that the champions of secession had no hope to carry the people of the South with them save by defeating the candidate of the Democratic party. The whole tone and temper of the Republican leaders and press at the North, before and during the session of the convention, plainly shows that they had no hope of electing their candidate, save by diverting the vote of the South from the Democratic candidate to the secession candidate. Thus the action of the two sectional parties tended to the same result of the Presidential election. Had Mr. Douglas been elected, secession could not have prevailed at the South, and the several aims of both

sectional parties would have been alike defeated.

The result was the defeat of Mr. Douglas and the election of the Republican candidate. We have no personal objection to the distinguished gentleman who now sits in the seat of Washington. His election was perhaps less mischievous than that of any other prominent Republican. The evil of his election belongs to his party, not himself. The good he has done is in a great degree personal to him. Republican as he is, he has not forgotten his old national patriotism. If he has not always, he has often, resisted the abolition element in his party and stemmed the tide of its revolutionary course. In this, he has done the country immeasurable service; and we hope that he will continue to stand as a barrier as well against the most destructive faction of his own party, as against the armed enemy of the Union. The responsibilities of his position are such as might awe any man; and in all his efforts to sustain the constitution against revolution and innovation, he has our hearty sympathy and support.

The election was the signal for the movement of secession. It was no excuse for the guilt of disunion. The insincerity and bad faith of the leaders in the movement is demonstrated by the fact that in both Houses of Congress there was a safe majority against the republican party. But the truth is that the apostles of secession were traitors at heart, independent of the election; and that they wanted and used the election only as a lever to precipitate the south from its allegiance. They duped the south into the belief that the entire people of the north were infected with the leprosy of abolition.

As it was, we fully believe that the majority of the whole southern people stood loyal to the Union and that in no seceding state, except South Carolina, was the ordinance of secession fairly carried before the people.

The election of Mr. Lincoln, though effected by a minority of votes, was carried in all the forms of the Constitution, was obligatory upon all the states and the people thereof, was no palliation for the unhallowed act of secession, was no ground for the risks, sufferings, horrors, and ruin of the most shameless and detestable civil war known in the history of civilized man.

The standard of revolt was raised, and civil war began. Whatever may have been the relative guilt of the two sectional parties in the causes which prepared the South for revolution, the sole guilt in the war itself rests with the Southern party of secession.

Congress has declared the war is waged by the government of the United States, not in the spirit of conquest or subjugation, nor for the purpose of overthrowing or interfering with the rights of institutions of the states, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality and rights of the several states unimpaired; and that as soon as these objects are accomplished, the war ought to cease. Thus carried on, the war is not only

expedient, but necessary; not only justifiable, but holy. It is a defensive war. It is a war of self preservation. Disunion, once successful, would be a recurring evil; and instead of leaving a Northern Union and a Southern Confederacy, would continue its destructive career until all of the states would be broken and dissevered by petty sovereignties and wasted by petty warfare. We cannot calmly contemplate disunion. We know and love the blessings of Union; but no human eye can penetrate the dark and terrible future which lies beyond the grave of the Constitution. The war for the preservation of the Constitution has all our sympathies, all our hopes and all our energies.

But we have a right to demand, it is our duty to demand, and we do demand, that this war be carried on by the government *for* the constitution alone, and *under* the constitution alone. To that end, amongst others, we retain our political organization, and will use our best efforts from time to time and at all times, to regain for the democratic party, under the forms and sanctions of the constitution, the control of the legislative and executive departments of the government of the United States.

In the meantime, the war must be carried on and sustained with all the energies of the United States, and the people thereof. No blood or treasure is too dear a price to re-purchase the Union inherited from our fathers and to transmit unimpaired to our children.

It is not our province to relate the history of the war, or to criticise its movements. Many hundreds of thousands of our loyal brethren have patriotically gone forth to battle for the Union. All have done nobly, all have suffered nobly, many have died nobly. The angel of death has made bloody vacancies in many a northern home. Few have escaped without the loss of some near or dear friend. American liberty has been re-baptized in loyal blood; and hundreds of thousands of loyal men are now in the field, or hastening hither, to conquer or die for the constitution. We owe it to the memory of the dead, we owe it to the living hosts in the field, we owe it above all to the constitution, to respond with cheerful alacrity to every constitutional call for men, to submit to every constitutional exaction of treasure. We owe all that we have, and all that we are, to the Union; we must pay the whole debt if it be necessary.

But war is not our whole duty. We owe a political debt to the Constitution, and that too must be paid. We adopt the language of Gen. Jackson, that war alone cannot preserve the Constitution against disunion. War can, and we hope speedily will, subdue the armies of the revolted states. War can, and we hope speedily will disarm every traitor, possess every place of strength, and uphold the grand old flag on every flag staff in the United States. But when war shall have accomplished all that war can do, the Union will not be fully restored. The participation of the revolted states in the Government of the Union must of necessity be voluntary.—War has no power to compel such voluntary action. The peace and permanency of the restored Union will depend, in a great measure,

in the confidence of the people of the recovered states, in the justice of the General Government, and in the faithful observance of their Constitutional rights. War has no power to inspire this confidence. The stability of the Union then, as in times past, will need the mutual good will and affection of the people of the several states. War has no power to control the affections.—The people of the South will return to the Union, when they do return, wounded in their pride and embittered in their feeling. When they return, they will return as brethren, and merit the treatment of brethren. The law may demand its victims, but those guiltless of the war, and those forgiven by the law, will again be our political brothers. The restored states will return to the Union with all the rights of other states. To win back the confidence and affection of their people, and to restore the Union in the spirit of the Constitution, the sectional party at the North must be vigorously combatted and in due time overthrown at the ballot box by the Democratic party, the only national, Constitutional party left in the land.

If the Democratic party should be disbanded, or should suffer itself to remain inactive, the south would retain its old distrust of the Republican party, and its old aversion to the general government administered by it. It would then believe that the whole north was indeed given up to abolition, and that the weaker south would receive no justice from the stronger north. But if the south sees the Republican party defeated, and the ancient defender of its rights against sectional influences once more in power in the Union, or even bold in maintaining its old political warfare against sectional parties and influences, then may the people of the south, misled from their allegiance by the detestable intrigues of ambitious demagogues, well hope to find once more in the Union old rights, old blessings, old safety. Disunion is the offspring of sectional parties, and the complete restoration of the Union, in all its old peace and harmony, rests upon the utter rout, north and south, of all sectional parties. The spirit of the constitution must go hand in hand with the letter of the constitution.

It is no less essential to the people of the loyal states to establish the full reign of the spirit of the constitution; to restore as the supreme law of the land, in peace and war, in prosperity and adversity, in all circumstances of society, the constitution, the whole constitution, and nothing but the constitution.

We claim the right, as free and loyal American citizens, to discuss the conduct of the administration, and to censure it when we deem it worthy of censure. Our fathers won and established this right, and we will not surrender it. We utterly deny to the Executive of the United States the power assumed by Congress in the sedition act of 1798 to suppress opposition to the Administration, or restrict the full freedom of political discussion in the loyal states. This would be to assume a power above the Constitution. The administration has no more power to suspend the Constitution, than have the people. The administration is the

child of the Constitution, and the servant of the people. The child must not reject the authority of the parent, nor the servant usurp the rights of the master. The Constitution and the laws give the administration ample power to protect itself and enforce its authority in the loyal states; and it would at this day be an evil example pregnant with anarchy and disorder, to disregard the constitutional rights of the loyal states and their people. We cannot bring ourselves to the belief that such a reign of terror is impending over us. We respect the administration too much for such an apprehension. But if such times are upon us, we must play our parts like men, and not disavow our principles and opinions like cowards. Loyal to the core to the Constitution and government of the United States, the democracy has nothing to fear from the assertion of its principles and the discussions of its political views.

Allowing much of minor evil to pass unnoticed, in view of the difficult part which the administration has had to play, there are some grave acts of the Executive and legislative departments of the government, for which we hold the republican party responsible, and for which we assign it at the bar of public opinion.

We denounce the mischievous and unconstitutional tone of much of the discussion in both Houses of Congress at its late session. We hold the general tenor of these discussions against the rights of slavery in the slave holding states, and in favor of the exercise by Congress of powers not delegated by the constitution, to be eminently dangerous in sustaining the spirit of secession at the south and increasing a disregard for the constitution at the north.

We denounce the abolition of slavery in the District of Columbia, at the cost of the United States, as unconstitutional, and peculiarly mischievous at this time in giving force to the distrust at the north in all the slave states.

We denounce the sweeping and indiscriminate measures of confiscation and emancipation as unconstitutional, and as having a strong tendency to unite the whole south against the Union, as one man.

We believe that these and kindred things have had a great weight in diminishing the numbers and influence of the Union Party at the south.

We deny the powers of the executive to suspend the writ of *habeas corpus* in the loyal states. We deny that this act, materially changing the laws of the land, is an executive act. We have the authority of the Supreme Court of the United States, pronounced by the voice of Chief Justice Marshall as long by 1807, and affirmed by every commentator on the Constitution since, that under the Constitution of the United States, it is a legislative power. No king has assumed such a power in England, since the revolution.

We deny the power of the executive to make arrests in the loyal states. The suspension of the writ of *habeas corpus*, if validly done, would not authorize this. There are federal courts in all the loyal states with full power and jurisdiction to punish all crimes against the United States. No exercise of executive power has

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ever been more odious than *lettres de cachet*, by which the executive could arrest and imprison without judicial writ, accusation, or trial. We hold this manner of arrest in the loyal states of persons not in arms against the government to be in violation of Sec. 2, Art. 3, of the Constitution of the United States, and of Arts. 4, 5 and 6 of the amendments thereto. And we consider this practice as unnecessary and, tending to bring the Constitution into disregard.

We deny the power of the executive to trammel the freedom of the press by the suppression of newspapers. The press is judicially responsible for abuses; but the freedom of the press, subject to judicial remedies, is essential to the freedom of the people. And we protest against the manifest partiality with which this new and dangerous power is exercised.

We deny the recent semi-official definitions of the crime of treason. "Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort." In commenting on this definition in the constitution, Judge Story quotes with approbation the remark of Montesquien, that if the crime of treason be indeterminate, that alone is sufficient to make any government degenerate into arbitrary power; and he denounces, as the Supreme Court of the United States had rejected, the doctrine of *constructive treason*. It was in apprehension of the dangers of constructive treason, that the definition of this crime was introduced into the body of the constitution itself: and it is a definition far more in keeping with the rights of a free people than such vague phrases as *disloyal practices*. The statutes of the United States amply provide for the punishment of treasonable crimes under the constitution, and we recognize no power in the executive to enlarge them.

We deny the power of the executive to transport persons accused of crime in the loyal states, from the state where the crime is alleged to have been committed, to any other state or place for trial; to cause the trial of any person in the loyal states for any crime before military tribunals or other courts, except before a jury in the Constitutional District Courts of the United States; or to subject such persons to such trial, except upon the indictment of a grand jury. These rights are guaranteed to every person, under all circumstances, by the constitution itself. And we fully believe that the loyal people of the United States are worthy of their fathers, who formed the constitution, and will be found unwilling to surrender rights so sacred and so essential to their liberties.

We believe that the executive acts of which we complain, were done rather in inadvertence by subordinate officers, than in the deliberate purpose of subverting the Constitution, or with the sanction of the President. The strength of power, however, is too great and too dangerous to the liberties of the people, to pass without the protest of the free and loyal Democracy. If done as part of a full and deliberate policy, they strike at the root of American liberty, and we are drifting from the safe anchorage of the Constitution into an unknown wilderness of cruel waters.

Let whatever may come, the Democracy will abide by their time honored principles, by the Constitution and the Union. "We will not surrender our rights nor forsake them. We will maintain our constitutional liberty at all hazards, and as a necessary step towards that end, we will maintain the Union in like manner—We are for the Constitution as it is, and the Union as it was."

We call upon our brethren throughout the state to organize the party for the coming election of members of Congress, and of the State Legislature. We call upon them to nominate as candidates tried and true democrats on strictly party principles, inviting the of support all persons, but acting in affiliation with no other party or faction whatever. We call upon them, for the sake of "liberty and union, now and forever, one and inseparable, to exert all their Constitutional right and power to elect conservative men, who will not blasphemously assume to do any official act in the name of God, which cannot be done under the sanction of the Constitution. So doing the democracy of Wisconsin will best serve the cause of the Union, and give the highest proof of their loyalty to the Constitution.

We claim the right on their behalf and our own, to censure the political acts of the Administration, when we think that they deserve it, and to do all lawfully within our power to sustain the supremacy of the Constitution in all places north and south, and over all persons in office, and out of it. And to that end we devote our hearts, minds and estates to aid the Administration in the most vigorous and speedy prosecution of the war waged against the Union by the revolted states. We believe that in so doing we fulfill the most sacred duty we owe to the Constitution.

And to this, we solemnly pledge the faith of our party and ourselves, until the war be ended and the Constitution restored, as the supreme law of the land, in every state of the Union.

# WAR POWER OUTSIDE THE CONSTITUTION.

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MAT. H. CARPENTER'S  
REVIEW

OF

MR. RYAN'S ADDRESS.

*At the time this "Review" was written,  
Mat. H. Carpenter was a "Democrat";  
& the Address was written to vindicate the  
Democrats who supported the War for the  
Union, & the Policy of the President.*

MILWAUKEE, WIS.:

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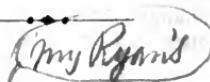
1862.



# M. H. CARPENTER'S REVIEW

OF

## MR. RYAN'S ADDRESS.



It would be carrying the joke too far, and doing injustice to a large portion of our people, to represent this address as embodying the views of the democrats of Wisconsin. George B. Smith, Esq., one of the oldest and most eloquent democratic orators in the state, and A. R. R. Butler, Esq., who is too well known as a democrat to need any commendation, opposed it with all their power; and Jonathan E. Arnold, a patriot, a democrat, an orator and a gentleman, put forth one of his happiest efforts protesting against the bitterness of its partisan spirit, at a time when the government stands in need of the united voices and exertions of the whole people.

This convention was as remarkable as the address. There were probably never so many extreme men in one assembly before. As one of the delegates said of the rest, not one in twenty believed in the address. But they were angry at the administration; angry at everybody and every thing; they could not express their feelings among their loyal neighbors; and finding themselves in strength, and gaining confidence from numbers, they determined to have one long, loud, saucy talk, and then be silent forever more. In this unamiable state, wanting a physician who could "minister to a mind diseased," they naturally looked to Mr. Ryan, who had the ability and was in the mood to do it. Accordingly before the convention was organized, Mr. Eldredge of Fond du Lac, moved the appointment of a committee on resolutions, with Mr. Ryan for Chairman. This was rather a left-handed compliment to the presiding officer, who is ordinarily supposed to have sufficient intelligence to appoint committees; but the boys were not going to forego their treat, they wanted a "saucy talk; and they fixed it in advance, so that no blunder could interfere with their designs. After the permanent organization, Mr. Eldredge renewed his motion for the appointment of a committee of five on *Resolutions*, with Mr. Ryan for chairman. This was carried, and Mr. Ryan presented his resolution, filling five columns in fine type in the *News*. Mr. Ryan called it an address; but no committee had been raised to draft an address; and the production in question should be called "Mr. Ryan's resolution to kill the democratic party." Some have suggested that there was on his part a suppressed, disguised patriotism in writing this address; that he really deprecated the existence of parties in this perilous hour, and therefore determined to destroy the only party in which he was entitled to raise his voice, or exercise his septic powers.—

There are some features of the address that render this theory plausible ; but upon the whole it is not certain that this is its true explanation.

The democratic party has been called by its enemies the pro-slavery party. This has been repelled as a slander by all the democrats of Wisconsin.—They have said that with slavery we had nothing to do ; that it was a local institution, protected in the States by the constitution ; that the provisions of the constitution in relation to slavery, were a part of the compromises upon which that instrument was based ; and that it was our duty to obey every provision, whether we approved or disapproved. The Baltimore Convention in 1840, set forth the democratic creed upon the slavery question as follows :

*"Resolved,* That Congress has no power, under the constitution, to interfere with or control the domestic institutions of the several States ; and that such States are the sole and proper judges of everything pertaining to their own affairs, not prohibited by the constitution ; that all efforts, by abolitionists or others, made to induce Congress to interfere with questions of slavery, or take incipient steps in relation thereto, are calculated to lead to the most alarming and dangerous consequences, and that all such efforts have an inevitable tendency to diminish the happiness of the people, and endanger the stability and permanency of the Union, and ought not to be countenanced by any friend to our political institutions."

This resolution was re-adopted by the National democratic conventions of 1844, 1848, and pledged the democracy to let slavery alone, as a thing it had no right to interfere with. It is believed that no democratic convention in a free state ever went beyond this, to a justification of slavery *per se*. Jefferson pronounced slavery a curse and a sin. But hear what Mr. Ryan says :

"Nature never placed the races together. When brought together, the servitude of the inferior is the best condition of both races ; a necessary evil resulting from the violation of a natural law in bringing them together. But Fanatacism did not so see it," &c.

Mr. Jefferson did not so see it ; nobody in a free state except Mr. Ryan, ever did see it so, nor was it over heard of in a slave state until Mr. Calhoun promulgated the infamous dogma to the astonishment of the Christian world. The Spaniards have been universally execrated in history for enslaving the Indians. But according to Mr. Ryan, this was perfectly right.—The sin was in the white race coming here. "Nature never placed the races together." But when the white man had committed the sin against nature of discovering and settling upon this continent, then inhabited by an inferior race, he was perfectly justified in enslaving it. "*It is the best condition for both races.*"

Is this democracy ? Is this the creed, which if a man does not believe, he shall be driven from the face of Mr. Ryan and the whole democratic party ? Mr. Ryan tells us in the outset that "it becomes us to consider the application of old principles to new conditions ;" and he has set us the example with a vengeance. The most cruel and barbarous slavery ever known on earth, the slavery of the Indians by the Spaniards, is, by the doctrine of this address, justified, *per se* ; and that too in the platform of a democratic convention, in a free and Christian country, in the last half of the nineteenth century. Did Mr. Eldredge of Fond du Lac, and John W. Carey, Esq., of this city, *both of whom voted for this address*, believe in this part of it ; or did they willingly vote for an address they did not believe in ? If this complete justification of slavery *per se* is an article of democratic faith, who originated it ? Who has ever before advocated it ? In what convention has it ever found favor, or in what democratic platform has it ever been a plank ? This address, adopted by a convention of which the *News* admits that not a few of its members "*had never before participated in the proceedings of a democratic convention, or voted a democratic ballot,*" commits the very fault,

the democrats have so long condemned in the abolitionists. It assumes to interfere with slavery in the States, by discussing its merits, and concludes with the implied advice that it should never be abolished. "It is the best condition for both races." The abolitionist reasons over the same ground and ends with the advice that it should be abolished, because it is the worst condition for both races. Now while the two extremes differ in their advice, they concur to violate the principle of political faith, announced in the Baltimore platform, that the States are "*the sole and proper judges of every thing pertaining to their own affairs.*"

But a far more objectionable, because more dangerous part of the address, is its manifest apology for the rebellion; and its labored efforts to throw the blame of it upon the North. Paragraph is piled upon paragraph to show that the abolitionists are really answerable for this war; and the occasional express repudiation of the necessary inference from all its statements and arguments, cannot redeem it with any intelligent reader. A skillful lawyer, wishing to apologize for a murderer, would say, "Now, gentlemen of the jury, I do not justify my client, but you should consider the circumstances of his offence. My client was an honest, peaceable man, pursuing his own calling, on his own premises; the deceased came there; came with insulting language and menacing gestures; my client declined any discussion with him and requested him to go away; but the deceased became more rude and insolent, heaping upon my unfortunate client every kind of offensive epithet, until finally overpowered with the anger the deceased had inspired, he struck a fatal blow; a blow the law cannot justify, &c." Now read this long address and see if it is not in this spirit and of this character throughout. The trick of oratory, to pretend one thing while really accomplishing another, and exactly the reverse, is not new with Mr. Ryan. Anthony practiced the same art in his consummate oration to the Roman citizens after the death of Cæsar, in which every school boy knows how he protested, that Brutus was "an honorable man," and at the same time convinced the people that he was the vilest of malefactors. Had Anthony said Brutus was a murderer, the people would not have listened to him. Mr. Ryan would not have been listened to, had he *said in words* the rebellion was justifiable. But both could, and both have disguisedly, but perceptibly, labored to carry their hearers to a conclusion directly opposite to *the point proposed*. It is pretended that the object of the address is to incite the party to sustain the government; and how does it accomplish this? By laboring, laboring, laboring to show, that if the North is not absolutely in the wrong, yet the South have been annoyed and worried till human nature could endure no more. "Thrice is he arraigned who hath his quarrel just;" and this address labors to show that our quarrel is unjust; that the South have taken up arms in consequence of the triumph of a sectional party in the election of Mr. Lincoln. What more has Jeff. Davis ever claimed or said?

The differences between the North and South, have swollen beyond the reach of argument; a terrible exertion of physical strength, must settle the question. If the South were conquered, if this rebellion were crushed out, then it would be proper to discuss what should be her treatment. But at this time when rebel artillery is belching on the capital, the direct and only effect of such an address is to make our people doubt the justice of their cause, and thus enfeeble and unnerve the arm of the government. It is matter of unfeigned astonishment and regret that any man could be found

willing, at such a time, to perform this task ; and it is not less astonishing that any man who has invited and urged his neighbors and friends to volunteer to fight in this war *on the part of the North*, should after they had moved to the battle-field, give his voice for a formal address to be promulgated *ex cathedra*—tending to show that these volunteers are engaged in a war, which to say the least of it, had been brought on *by the aggressions of the North upon the South*.

There are many things in this address that will astonish democrats.—But the principal thing that is so apparently unpatriotic as to strike the eye and offend the heart, is its direct and open repudiation of the last counsels of Douglas to the American people. And when a member of the convention moved to insert in the address a part of one of Mr. Douglas' great appeals to patriotism above party, the incongruity was felt to be so striking, that the mover was begged to withdraw the amendment, and save the convention that was willing to endorse Ryan, from the open shame of repudiating Douglas. But it was apparent that the sentiments of both could not stand side by side in the same address; and Douglas' appeal, that for disinterested patriotism has no counterpart in American literature, that lends new charms and imparts a higher lustre to his name and character, *was voted down*.

Mr. Douglas said :

“Whoever is not prepared to sacrifice party organizations and platforms on the altar of his country does not deserve the support and countenance of honest people. How are we to overcome partizan antipathies in the midst of men of all parties, so as to present a united front in support of our country? We must cease discussing party issues, make no allusions to old party tests, have no criminations and recriminations, indulge in no taunts one against the other as to who has been the cause of these troubles.”

And again :

“Let him be marked as no true patriot who will not abandon all such issues in times like this.”

Mr. Ryan, after indulging plentifully in criminations, and discussions as to “who has been the cause of these troubles, proceeds thus :

“We call upon our brethren throughout the State to organize the party for the coming election of members of Congress, and of the State Legislature. We call upon them to nominate as candidates tried and true democrats, *on strictly party principles*, inviting the support of all persons, but acting in affiliation with no other party or faction whatever.”

These quotations are sufficient to show that if Douglas was a patriot, this address is most unpatriotic and pernicious. No two addresses were ever more diametrically opposite. Their authors had essentially different views and purposes; and it may be left without further remark to the people to determine which was the patriot, which loved his country, which was the best exponent of democratic duty, and which address is the safer guide out of the horrors of these “disjointed times.”

Thus far we have spoken of this address as expressive of the peculiar views of its author. But there is one position not argued but assumed as a premiss, the invention of which cannot be charged upon Mr. Ryan. It is this :

“The constitution of the United States and the constitutions of the several States, provide alike for all the exigencies of peace at home and abroad, of foreign war and domestic insurrection.”

The traitor Breckinridge, shortly before joining the rebel army, main-

tained in the Senate and in public speeches, substantially the same doctrine. And if he could have convinced others of its soundness, he probably would still have remained in the Senate, and there have contributed more effective aid to the South, than he can with his sword in the field. Mr. Yancey lately writing to the people of one of the revolted States, expressed his surprise at the resources the North had been able to command, and his utter astonishment and horror *at the disregard shown in Congress for the constitution*

This language seems more appropriate in a traitor's letter than in the address of a Northern democratic convention, but comes to the same practical end. If the constitution does indeed provide "for all the exigencies of peace at home and abroad, of foreign war and domestic insurrection," then it is certain that the South will succeed, if we heed the constitution; and it would tend very much to discourage the North in this contest to convince them that they are daily violating the constitution they supposed they were fighting to maintain. But fortunately for us, and for all that is at stake in this controversy, the doctrine here announced cannot be maintained.

The constitution is the chart of *civil government*; and as such provides for the raising of armies and navies, and that the President shall be Commander-in-Chief, &c. All this is part of the machinery of *the civil State*. It is not very certain what is meant by "provides for all the exigencies of foreign war." The address is extremely general and oracular at this point. One of the exigencies of foreign war, placed General Scott and his army in the city of Mexico. Now is it meant that the constitution provides for such a case, and directs what General Scott might or might not do in an enemy's capital? If it means anything it means this: and yet how unfounded is the assertion. The constitution no where directs when, where, or how a battle shall be fought, or a city be taken; and if General Scott had looked to its provisions, he would have found not one word applicable to the subject; or that any one has ever pretended was applicable. When our army marched to Mexico, it went, not under the constitution of the United States, but under the law of nations and the usages of war; and had precisely the same rights and duties as an army of Great Britain or Russia in the same situation. The army in an enemy's country, or, to quote the address, engaged in *foreign war*, never consults the constitution of the civil State at home; the army of a republic or a monarchy, or of an absolute despotism, conducts its campaigns by the same code; totally unaffected by the frame of government which sent it forth. And our constitution has not pretended to regulate or control the law of nations, or to determine the usages of war; nor could it do so, if it had attempted. What then is meant by the language, the "constitution provides for all the exigencies of foreign war." Any meaning that occurs is entirely unfounded. If it is simply meant that the frame of the civil State, and its powers in *mere civil matters* remain the same whether engaged in war, or at peace, then this may be conceded; but the concession cannot aid the address—nor justify its deductions. It is true that during the Mexican war, Congress had no power to pass a law respecting the establishment of religion, or creating a title of nobility, more than it could in time of peace.

But because the civil powers of the government are limited by the constitution alike in war or peace, it by no means follows that the war power is defined, limited or controlled by the constitution. It is a very artful feature of this address—one borrowed from the methods of Mr. Calhoun—that it passes over the really debatable ground upon this subject, and without argument or discussion, assumes as premises, the very points in controversy. It is asserted, that the constitution provides for all the exigencies of war, and thence it is argued irresistably, that the constitution is being violated in the

prosecution of the war. But the premises assumed are totally denied. The great fallacy in this part of the address is at the starting point, and in what is assumed with perfect confidence as an axiom. If a man were to commence an argument by assuming that the moon is made of green cheese, he would have little difficulty in proving that its presence would not "illumine the night."

But to return; if there is any meaning in this part of the address, it means that the provisions of the constitution apply to the persons against whom the war is waged, and regulate the extent to which the war may be carried, as against such persons. A few examples will put this pretence at rest. The constitution provides for instance, that no man shall be deprived of life without due process of law. Does this provision apply to the conduct of the war, and can no rebel be killed till he has been first tried and convicted by a jury? Then every rebel slain on the battle-field is murdered.—So we may take up the provisions of the constitution one by one, and show that no one of them applies or pretends to apply to the conduct of the war. War is entirely outside the constitution; the constitution makes preparation for it, but is silent as to its management. It furnishes the instrumentalities, but does not direct their use. This is as true of domestic as of foreign war. The constitution commands the President to take care that the laws are faithfully executed, and gives him the army and navy for that purpose.—And the President and the military and naval officers under him must of necessity, judge in the first instance, of the exigencies of the war, and prosecute it in all places till the principal object be accomplished. The power to arrest is as undoubted as the power to kill, and is as necessary an exercise of the war power. The power to destroy property, if necessary to the successful prosecution of the war, is of the same undoubted nature. It is worthy of notice, that in the constitution, the protection of life, liberty and property, are united in the same provision as follows: No person shall "be deprived of life, liberty or property without due process of law;" and all stand upon the same footing so far as this discussion is concerned. An exercise of the war power may sweep them all away; and the constitution no more pretends to protect one than the other, *as against the war power*.—Would it be pretended that if a spy came within the military lines, under such circumstances as are forbidden by the usages of war, that the President, or his servants, could not arrest him without warrant? And could it make any difference that the spy, whose character was clearly ascertained, should be found in one of the loyal states? Suppose the government should be collecting at Cincinnati a large force for a particular purpose; and a soldier from the rebel army should be sent in disguise within our camps to spy out the number, condition and destination of the troops, would there be the slightest doubt of the right and duty of the President or his military subordinates, summarily to arrest such person, and subject him to military trial and punishment as a spy?

Yet the address says, in most charming generality of expression:

"We deny the power of the Executive to make arrests *in the loyal States.* \* \* There are federal courts in all the States with full power and jurisdiction to punish *all crimes against the United States.*"

Again suppose the success of a particular campaign should be found to depend upon entire secrecy; yet some newspaper in New York should persist in publishing day after day full particulars of all preparations and plans of the campaign, thus acquainting the rebels with the information necessary to render it a failure. Would any man doubt that this was, if done knowingly and wickedly, giving aid to the rebellion? Would it not

under such circumstances be the duty of the president or his military agents or officers to arrest such editor; and suppress such newspaper, with artillery, if it could not otherwise be suppressed. Yet this address says, without any qualification whatever, "we deny *the power* of the executive to trammel the freedom of the press by the suppression of newspapers," &c.

The error of this part of the address is that it is not directed against an improper exercise of the power, but denies *the power*, in even a proper and absolutely necessary case, to arrest a spy in a free State, or prevent a newspaper giving information to the enemy that will render a campaign abortive. This egregious error is the more to be reprehended, that it was penned and endorsed by an eminent lawyer, who well knew the broad distinction between the existence of a power, and the improper exercise of it in a given instance.

Manifestly the character of the offence must determine whether it be amenable to military punishment, and not the place or State where it was committed. If a soldier from the rebel army is really a spy, it can make no difference with the mode and extent of his arrest and punishment, whether the field of labor assigned him by his commander be on the north or the south side of the Ohio, at New Orleans or New York. If the act complained of be in its character a military offence, then it merits and must receive the speedy award of military law. The arresting of spies, by warrants from the Courts, would be a good joke indeed. Somewhere in Burke's works, he ridicules the Chief Justice of India, by representing that he tried to suppress a rebellion with affidavits. Mr. Ryan must have risen from a recent reading of Burke's works, when he penned this part of his address. It is unnecessary to speak of particular instances of the exercise of this power to arrest and to suppress newspapers, or to express any opinion as to the propriety or impropriety of its exercise in particular cases, because this is not discussed in the address. The subject of discussion is the power itself; and not whether it has been improperly exercised. No power was ever lodged with any human being that might not be mistakenly exercised; but this is no argument against the existence of the power.

And every lawyer knows that wherever a power is lodged, there rests also with it the right to judge whether the proper case is presented for its exercise; this is absolutely necessary to the utility of the power. The President and his military subordinates must therefore judge, answerable to public opinion and on their consciences to their God, whether the proper case exists to make a military arrest, to batter down a fort, or blow up a newspaper. The President must judge of the conduct of men, and of the character of the publications, and say whether they are of a class to be proceeded against in the Courts, or with bayonets. The President, for instance, must judge of the character of Mr. Ryan's address, and of this criticism of it, and if in his opinion either are calculated to spread dissensions in the north, to such extent as to render present aid to the military operations of the south, he is as clearly authorized to deal with the author, as he would be to deal with him for doing any other act that directly aided the rebel campaign of arms. If a paper embodies abstract doctrines merely erroneous, but which cannot contribute directly or presently to aid the military operations of the enemy; but are like the address only calculated and intended to secure for its author favorable political considerations on the

part of southern politicians after the war is ended, then I suppose the author should not be arrested without a warrant from the Courts; but if the paper contained information or sentiments directly and presently calculated to strengthen the rebel, and paralyze the loyal arm, on the field of battle; then the author should be arrested, and punished by military law. If the offender is found giving present aid to the military operations of the enemy, whether with his pen or his sword, he is amenable to military law. And the President must of course judge in any given instance to which class a publication belongs and treat it accordingly. We can conceive that in a critical point of a campaign, the mere announcement on a certain day in a New York paper, that ten regiments from New England had landed in New York that morning, might give the enemy information upon which he would either fight or decline to fight, at a particular time or place, and thus enable the enemy to win a victory over us, or prevent us from winning one over him. And this publication, if made for this purpose, would render the editor as guilty of treason, as though he had contributed with his musket to help the rebel army to gain a victory or avoid a defeat. The prosecution of a campaign requires a great variety of efforts to ensure its success. Some must fight in the field, some must take care that provisions and ammunition are furnished to those who do fight; and others must act as spies and obtain and transmit military information. It is immaterial which one of these necessary branches of military service a man is found performing, he is equally guilty of treason; he is equally rendering present aid to the military operations of the enemy; and is equally subject to summary arrest and military trial and punishment.

There are many other equally unfounded and erroneous statements in this address, affirmed with a confidence that may well make a man who reads it wonder whether he is dreaming, or listening to a burlesque upon patriotism and democracy; but these few things may serve to illustrate the balance.

There are some occasional and shining truths, that half redeem the address; such for instance as this—"Unfortunately, among many elements of good and greatness, *fanaticism emigrated to this country.*" If any one doubts it, let him read the address. And in considering it, it is a consolatory and conclusive evidence that the democrats of Wisconsin are sound and loyal, that go where you will in this city since its publication, you hear it spoken of only in terms of unmeasured denunciation.

While a man's opinions are kept to himself, they are his own; but when they are foisted in this way upon a great political party, as the expression of their creed and doctrines, every man who now does, or ever did call himself a democrat, is interested and authorized to protest against them.

The Milwaukee *News* of the day after the publication of the above Review, contained the following :

### THE STATE ADDRESS AND THE CONSTITUTION.

Some of "the boys" in these days are getting wiser than their fathers. They have discovered that war—all war, and especially a war to suppress insurrection—"is entirely outside the Constitution." So they attack the Address of the Democratic State Convention, because it says :

"The constitution of the United States and the laws enacted in pursuance of it, are the supreme law of the land in all conditions of the country. The constitution is inviolate in all circumstances of the people and the government. State necessity has no power to suspend the constitution or abridge the freedom of the people."

For the benefit of those who think this is bad democracy, we quote from Andrew Jackson—not to convince them that Jackson was right, but to show what an "old fool" Old Hickory was. In his proclamation to South Carolina, he said of the Constitution :

"We have hitherto relied on it as the perpetual bond of our union. We have received it as the work of the assembled wisdom of the nation. *We have trusted to it as the sheet-anchor of our safety IN THE STORMY TIMES OF CONFLICT WITH A FOREIGN OR DOMESTIC FOE.*"

Again, in the same proclamation :

"The laws of the United States must be executed. I have no discretionary powers on the subject—*my duty is emphatically pronounced in the Constitution.*"

Again, addressing the people of the United States :

"I rely with equal confidence on your undivided support in my determination to execute the laws—to preserve the Union by all Constitutional means."

Again, in his message to Congress, on the South Carolina rebellion, he says :

"If these measures cannot be defeated and overcome by the powers conferred by the Constitution on the federal government, the Constitution must be considered as incompetent to its own defense, the supremacy of the laws is at an end, and the rights and liberties of the citizens can no longer receive protection from the government of the Union!"

Again—still speaking of the southern rebellion :

"The duty of the government seems to be plain. It inculcates a recognition of that state [South Carolina] as a member of the Union, and subject to its authority; a vindication of the just power of the Constitution; \* \* and the execution of the laws BY ALL CONSTITUTIONAL MEANS."

George Washington, himself the President of the Convention which framed the Constitution, was another such crazy old fellow on this question. In 1794 he suppressed a miniature rebellion in Pennsylvania by the use of the militia, and before he marched his soldiers there, he issued a proclamation which began in this way :

"Now, therefore, I, George Washington, President of the United States, in obedience to that high and irresistible duty consigned to me by the Constitution, &c."

Washington and Jackson thought war should be carried on within and according to the Constitution "by constitutional means." Neither of them ever imagined that they could carry on war without the authority of the Constitution. Neither of them supposed that a "military necessity" could exist for a violation of any one of the provisions of the Constitution.—The whole history of the Constitutional Convention shows that the Constitution was intended to be adapted to all the exigencies of war, granting every power necessary to carry on war without rendering its own violation necessary. And the man who supposes that a state of war implies the hos-

tility of the government to the Constitution, or a power in the administration to trample upon the Constitution, or any part of its sacred provisions, never had his mind enlightened with the first gleam of democracy of any sort.

### M. H. CARPENTER'S REPLY TO THE ABOVE.

An Editor was never more unfortunate in defending a bad cause, than was the Editor of the *News*, when he attempted to sustain the doctrines of Mr. Ryan's address, by reference to the lives or writings of Washington or Jackson. The quotations with which the Editor has adorned his article have not the remotest application to the point under discussion, that is, *does the Constitution provide for all the exigencies of war?* But there are in the life and writings of Jackson, and in the speeches and reports of Jackson democrats, abundant material to condemn Mr. Ryan's address, in its letter and in its spirit.

To say nothing of his Florida campaign, in which he exercised innumerable imperial powers, which he and his friends justified, not by the constitution, but by the necessities of the case, let us come directly to the last war, when Jackson had military command at New Orleans; and there we shall find many cases directly in point, and completely overthrowing Mr. Ryan's theory, that the constitution is a *regulation of war*, or a guide to the President and his military subordinates, in conducting the war. We shall see many things which Jackson *did outside the constitution*; and how he and his political friends defended his conduct.

He first proclaimed martial law, and while it was in force, though after the report of peace had reached the United States, the Louisiana Gazette, a newspaper printed at New Orleans, published a certain article which called from the old hero a communication denying its truth, which he sent by an aid-de-camp to the offending editor, with a written order requiring its insertion in the next issue of the paper, and concluding as follows :

"Henceforth it is expected that no publication of the nature of that herein alluded to and censured, will appear in any paper of the city, unless the editor shall have previously ascertained its correctness, and gained permission for its insertion from the proper source."

During this state of things, Frenchman attempted to elude the General's grasp, under so-called protections from the French Consul at New Orleans; and Jackson issued an order requiring all unnaturalized Frenchmen, *together with the French Consul*, to leave New Orleans within three days, and not to return to within one hundred and twenty miles of the city, until the news of the ratification of peace should be officially published. This order was thought by some to be "outside the constitution;" and they protested against it in an article in the Louisiana Courier, (another newspaper of the city,) which protest reads exceedingly like Mr. Ryan's address, and denounces the order as *illegal and unconstitutional*. Thereupon Jackson ordered the editor to headquarters, and compelled him to disclose the name of the writer, Louallier; and then Jackson sent a file of soldiers to arrest Louallier. Indignant that his article, which is in the very strain of Mr.

Ryan's address, and written to prove that "the constitution provides for all the exigencies of war," should be regarded as cause for arrest, Louallier applied to Judge Hall of the United States Court, for a writ of *habeas corpus*. That worthy functionary, believing like Mr. Ryan, that the constitution does indeed provide for all the exigencies of war; that the freedom of the press could not be trammelled, and that the arrest of Louallier, without process, in a loyal State, was illegal, allowed the writ. The officer came to serve it; and Jackson being informed of what had taken place, rushed to meet the officer, seized the writ of *habeas corpus* from his hand, and detained it; and immediately ordered Judge Hall to be arrested and he was imprisoned in the same room with the French expounder of the doctrine that *the constitution provides for all the exigencies of war.*

Now, actions speak louder than words. This is what Jackson did; and that, too, in a loyal State; and this he did as a representative of the President, exercising by delegation from the then President, Mr. Madison, the President's executive power. Turn now to Mr. Ryan's address and see how it is supported by the authority of Gen. Jackson.

1. "We deny the power of the executive to suspend the writ of *habeas corpus* in the loyal States. We deny that this act, materially changing the laws of the land, is an executive act."

\* Jackson suspended the writ; and then suspended the Judge who issued it; and all this in a loyal State.

2. "We deny the power of the executive to make arrests in the loyal States. \* \* \* There are federal Courts in all the loyal States with full power and jurisdiction to punish all crimes against the United States."

Jackson made arrests in a loyal State; and arrested the Judge of a federal Court in a loyal State.

3. "We deny the power of the executive to trammel the freedom of the press, by the suppression of newspapers."

Jackson trammelled the freedom of the press; and if he did not do it by suppressing the newspaper, it was because the editor who had heard the lion's roar, did not provoke his paw.

Here then, are three distinct planks of Mr. Ryan's platform, which exclude Jackson from the tents of the democracy, as clearly as other portions exclude Douglas. When this address shall be universally applied, and all those shall be excluded who do not believe its doctrines, or practice its lessons, Mr. Ryan will remain the leader, and the *News* the organ, of a glorious LITTLE party, the harmony of which will never be disturbed by any impulsive patriotism.

But this is not all; not only did Jackson when exercising by delegation the executive power of the President, deliberately violate these three fundamental dogmas of Mr. Ryan's address, but he and his friends afterwards, in many places, and during many years, in speeches before the people, in legal arguments, in State papers, in reports and debates before Congress, added the weight of their opinion and their votes to sustain the conduct of Gen. Jackson; and thus to condemn the principles of this address.

After martial law ceased in New Orleans, the released Judge Hall called

the conquering hero before him to teach him that thereafter he must conduct was *inside the constitution*; *must not trammel the freedom of the press*; *must not make arrests in loyal States*, and a great many other things, all of which can be found in Mr. Ryan's address. Upon this occasion Jackson delivered a long paper in his defence over his own signature, fully justifying his conduct, which fills eleven columns of Niles' Register, and every paragraph of which is in deadly antagonism with the doctrine of Mr. Ryan's address—(8 Niles' Register, 245.) One paragraph will give an idea of the paper :

"A writ of habeas corpus was directed for his (Louallier's) enlargement. The very case which had been foreseen, the very contingency on which martial law was intended to operate, had now occurred. The civil magistrate seemed to think it his duty to enforce the enjoyment of civil rights, although the consequences which have been described would probably result. An unbending sense of what he seemed to think the conduct which his station required, might have induced him to order the liberation of the prisoner. This, under the respondent's sense of duty, would have produced a conflict which it was his wish to avoid. No other course remained then, but to enforce the principles which he had laid down as his guide; and to suspend the exercise of this judicial power, whenever it interfered with the necessary means of defence. The only effectual way to do this was to place the Judge in a situation in which his interference could not counteract the measures of defence, or give confidence to the mutinous disposition that had shown itself in so alarming a degree. Merely to have disobeyed the writ would have increased the evil, but to have obeyed, it was wholly repugnant to the respondent's idea of the public safety and to his own sense of duty. The Judge was therefore confined and removed beyond the lines of defence."

This document is signed with the great name of "Andrew Jackson."

The Judge however, was inexorable, and Gen. Jackson was fined one thousand dollars, and paid his fine.

Subsequently, and after Gen. Jackson had been President, and had retired to private life, a bill was introduced into Congress to refund the fine, upon the ground that the conduct of Jackson had been perfectly proper; and this led to a debate by most of the statesmen of that day upon the very point now under discussion.

Robert J. Walker, in the senate, submitted a report upon this subject, in which he said :

"The law which justified this act, was the great law of necessity; it was the law of self-defence. This great law of necessity—of defence of self, of home, and of country—never was designed to be abrogated by any statute, or by any constitution."

Mr. Payne, of Alabama, speaking upon this subject, said :

"I shall not contend that the constitution or laws of the United States authorize the declaration of martial law by any authority whatever; on the contrary, it is UNKNOWN TO THE CONSTITUTION OR LAWS."

And speaking of the argument that if the constitution did not authorize it, the general ought not to declare martial law, he says :

"Who could tolerate this idea? An Arnold might, but no patriotic American could. It may be asked upon what principle a commander can declare martial law, when it is conceded that the constitution or laws afford him no authority to do so? I answer, upon that principle of self-defence which rises paramount to all written laws; and the justification of the officer who assumes the responsibility of acting upon that principle, must rest upon the necessity of the case."

Mr. Livingston, in a written document submitted by Jackson to the court as a part of his defence; gave his opinion as follows :

"On the nature and effect of the proclamation of martial law by Major General Jackson, my opinion is, that such proclamation is UNKNOWN to the constitution and laws of the United States; that it is to be justified only by the necessities of the case," &c.

The legislatures of several of the states, instructed their senators, and

requested their representatives to vote for the re-payment of this fine with cost and interest. The legislature of New York, then largely democratic, prefaced their resolutions as follows :

" WHEREAS, the salutary energy of General Jackson at New Orleans, during the campaign of 1814, and 1815, has repeatedly received the approbation of the American people : And, whereas, Congress, on the 15th day of February 1815, voted thanks to that illustrious citizen for his gallantry at New Orleans, and directed a gold medal to be struck and presented to him in testimony of the high sense entertained by Congress of events so memorable and services so eminent ;

" Resolved, Therefore," &c.

Levi Woodbury, equally eminent as a jurist and a democratic politician of the school of Jackson, speaking in the Senate upon the question whether martial law was properly continued after reports reached Jackson of the ratification of peace, said :

" It would be conceded at once that this question was not to be argued technically, by special pleading; for technically speaking, there was perhaps no constitutional authority for declaring martial law in the way in which it had been done. The necessity, the expediency, the moral obligation would be allowed as sufficient authority," &c.

While this matter was before Congress, General Jackson wrote a letter to Mr. Linn, which was read by him in the Senate, in which Jackson says:

" It is not the amount of the fine that is important to me; but it is the fact that it was imposed *for reasons that were not well founded*; and for the exercise of an authority which was necessary to the successful defence of New Orleans. \* \* \* In this point of view, it seems to me that the country is interested in the passage of the bill: *for exigencies like those which existed at New Orleans may again arise; and a Commanding General ought not to be deterred from taking the necessary responsibility* from the reflection that it is in the power of a vindictive judge to impair his private fortune, and place a stain upon his character which cannot be removed."

Many pages might be quoted from the discussions of those days to the same point; but surely these are sufficient. Douglas himself made his first great speech upon this subject; but as he is no longer recognized as a democrat, the *News* would never forgive my quoting his speech against Mr. Ryan's address. But afterwards General Jackson, in a personal interview tendered his thanks to Douglas for his speech, and speaking of the perfect justification which Douglas had made out for him, he said :

" I never could understand how it was that the performance of a solemn duty to my country—a duty which if I had neglected would have made me a traitor in the sight of God and man, could properly be pronounced a violation of the Constitution."

After mature consideration, and while the democratic party had the majority in both houses, Congress repaid the fine imposed upon Jackson; and thus vindicated him from all censure for saving his country; and sanctioned in advance, the conduct of any President or Commander, who under like necessity shall take the responsibility of conducting war "*outside the Constitution.*"

One of General Jackson's letters, in justification of his military conduct, contains the following postscript :

" It will be recollect that in the revolutionary war, at a time of great trial, General Washington ordered deserters to be shot without trial. Captain Reed under this order, having arrested three, had one shot without trial; but he (General Washington) reprimanded Reed for not shooting the whole three."

Washington and Jackson met the exigencies of war, not with statutes and constitutions; but with a healthy application of military law; and in the proper case with summary arrest, and speedy death. The severity and military vigor of Jackson's New Orleans campaign, would end this rebellion

in six weeks ; hence Breckenridge labored to prove that the war power is limited by the constitution.

The principle announced by Breckenridge is elaborated, polished, hid in meal, sugared over with an artful expression of conceded truths, in this address ; and democrats are bidden to *fall down* before it. The *News*, the organ of this doctrine in Wisconsin, says "*the boys*"—that is those who do not believe in it—should read Jackson. Bowing to its authority, and willing to have our democracy corrected if it was in fault, "*the boys*" have been to-day to the fountain head of democratic faith, illustrated by practice ; not any barren recital of dead dogmas, but the living, abiding, daily counsel and conduct of Andrew Jackson ; and it appears that if this address embodies democratic opinions, democracy has sprung up since Jackson went down to the grave.

Now, Mr. Editor of the *News*, the above quotations are the fruit of a day's reading of the times of Jackson, undertaken upon your suggestion.—If you know *any other father* of democracy, whose writings you think can be safely relied on to prove that the war power is *limited by the constitution*, please name him, and the "*the boys*" will search and give you the result of the investigation. And until some approved democratic writer can be referred to as maintaining such suicidal doctrine, we shall continue to square our democracy by the practice of Jackson, and the teachings of Woodbury, Walker, Douglas, and all the *worthies who have gone before*.

In reading and re-reading Mr. Ryan's address, we are more and more astonished; that any democratic writer should have the audacity to condemn the doctrines of the democratic party through so many years of its most glorious ascendancy ; and equally astonished that any so called democratic convention should endorse such political heresy. Perhaps the explanation is to be found in the fact admitted by the *News* when speaking of this convention, that "*not a few were there who had never before participated in the proceedings of democratic convention, or voted a democratic ballot.*" Such a convention could not be expected to know much about democracy.





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